THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.3458 of 2006

Date: 02.07.2007

Between:

Bevara Prakash Rao

....Petitioner

and

The Conservator of Forest,
Forest Department, Visakhapatnam and others

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.3458 of 2006

O R D E R:

The petitioner was granted prospecting licence on 19.04.2005 under the Andhra Pradesh Minor Mineral Concession Rules, 1966, to quarry granite in Survey Number 1 of Mulaga Village, Parvathipuram Mandal, Vizianagaram District. It is stated that the petitioner started the mining activity. When it was in progress, the officials of the Forest Department prevented the petitioner from proceeding with and in fact, have seized the machinery used therein.

This writ petition is filed with a prayer to declare the action of the respondents in interfering with the quarrying operations over the land referred to above as illegal, arbitrary and unconstitutional.

The petitioner contends that the prospecting licence was granted after verifying the nature of the land, and without any basis, the respondents started interfering with only on the basis of a stray and inconsequential entry in the records maintained by the revenue department to the effect that it is "Forest Poramboke".

On behalf of the respondents, a detailed counter-affidavit is filed. It is stated that the land, on which, the petitioner was granted

prospecting licence, is a reserve forest and in view of the Forest (Conservation) Act, 1980 (for short 'the Act'), no mining activity can be permitted to be carried on. It is also stated that the prospecting licence was granted to the petitioner, without the consent of the Forest Department.

Learned counsel for the petitioner submits that the revenue and other records were thoroughly verified before the prospecting licence was granted, and despite the same, the respondents are interfering with the mining activity. She contends that the prospecting licence expired on 18.04.2007 and well in advance, the petitioner filed an application for grant of quarry lease on 09.04.2007.

Learned Government Pleader for Forests submits that even according to the revenue records, the land is Forest Poramboke and still no reference was made to the Forest Department before the prospecting licence was granted. It is also urged that the seized machinery was produced before the Court of Judicial First Class Magistrate, Parvathipuram and the petitioner cannot seek release of the same in this writ petition.

Whatever may have been the circumstances, under which, the petitioner was granted the prospecting licence and the respondents started interfering with the activity of the petitioner, a totally new and different situation emerges now. The prospecting licence had expired due to passage of time. For continuing the activity, the petitioner has to obtain quarry lease, for which, an application has already been made. The objections raised by the respondents can now be taken into account by the department of Mines and Geology before the quarry lease is granted. The petitioner can also substantiate his contention as regards his entitlement to be granted the lease.

So far as release of the machinery is concerned, admittedly, the items of seized machinery were produced before the Court of Judicial I-Class Magistrate, Parvathipuram. The petitioner had to workout his remedies before that Court in accordance with law.

Hence, the writ petition is disposed of, directing that the objections raised on behalf of the respondents herein as regards the entitlement of the petitioner to be granted quarry lease shall be taken into account, as and when the application is taken up for consideration. The petitioner, in turn, shall be entitled to put forward his contentions in this regard. The petitioner shall also be entitled to work out his remedies, for release of the seized machinery before the Court, in which they were produced. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

2nd JULY, 2007.

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